



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,138	09/30/2003	Risto Olavi Harjula	7212.3001.002	5711

7590

12/04/2006

William J. Schramm
Reising Ethington, Barnes, Kisselle, P.C.
P.O. Box 4390
Troy, MI 48099

EXAMINER

ART UNIT	PAPER NUMBER
----------	--------------

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

10/675,138

Applicant(s)

HARJULA ET AL.

Examiner

Ivars C. Cintins

Art Unit

1724

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 18 September 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See attached supplement.

Supplement to Notification of Non-Compliant Appeal Brief

The Appeal Brief filed August 18, 2006, and supplemented on September 18, 2006, fails to comply with the requirements of 37 CFR § 41.37(c)(1)(v) and 37 CFR § 41.37(c)(1)(vii) for the following reasons.

The "summary of claimed subject matter" section of the Appeal Brief does not refer to the specification by page and line number; and therefore, fails to comply with the requirements 37 CFR § 41.37(c)(1)(v).

The "argument" section of the Appeal Brief does not present a separate heading for each ground of rejection; and therefore, fails to comply with the requirements 37 CFR § 41.37(c)(1)(vii). Appellant has correctly identified three separate grounds of rejection involved in this appeal. Namely, (1) claim 22 rejected under 35 U.S.C. 102(e) as being anticipated by Bedard; (2) claims 2-4, 17-19 and 22 rejected under 35 U.S.C. 103(a) as being unpatentable over Bedard; and (3) claims 7, 9, 10, 20 and 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Bedard in view of Dietz et al. (see pages 6-7 of the brief). Appellant, however, has only presented a proper heading for the first ground of rejection (i.e. claim 22 rejected under 35 U.S.C. 102(e) over Bedard) in the argument section of the Appeal Brief. Appellant should note that a heading containing only claims 17 and 22 (see page 11, third line from the bottom) is not deemed to constitute a proper heading for a ground of rejection involving claims 2-4, 17-19 and 22. Similarly, a heading containing only claim 9 (page 13, lines 3-4) is not deemed to constitute a proper heading for a ground of rejection involving claims 7, 9, 10, 20 and 21. While Appellant may argue claims separately or as a group for each

Art Unit: 1724

ground of rejection that applies to two or more claims, each ground of rejection must be treated under a separate heading. Also, any claim argued separately should be placed under a subheading identifying the claim by number; and claims argued as a group should be placed under a subheading identifying the claims by number.


Appellant is required to comply with provisions of 37 CFR 41.37(c). To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 41.37(c) within ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication. Extensions of time may be granted under 37 CFR 1.136.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is 571-272-1155.

The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Duane Smith, can be reached at 571-272-1166.

The centralized facsimile number for the USPTO is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
November 30, 2006